



WISCONSIN

**DEPARTMENT OF WORKFORCE DEVELOPMENT**

Division of Economic Support  
Bureau of Welfare Initiatives

**TO: Economic Support Supervisors  
Economic Support Lead Workers  
Training Staff  
FSET Administrative and Provider Agencies  
Child Care Coordinators  
W-2 Agencies**

**BWI OPERATIONS MEMO**

**No.: 99-49**

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**Non W-2 [ ] W-2 [X] CC [ ]**

**PRIORITY: High**

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**SUBJECT: W-2 24-MONTH TIME LIMITS**

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**CROSS REFERENCE: W-2 Manual  
BWI Operations Memo 99-48**

**PURPOSE**

This Operations Memo provides W-2 employment position extension policy clarifications and general procedures when determining whether or not a participant qualifies for an extension. Extension policies and procedures will be reviewed on an ongoing basis to ensure effectiveness as well as efficiency.

**HIGHLIGHTS OF MEMO**

- A discussion regarding extensions must take place between the FEP and the participant no later than when the participant reaches 18 months of eligibility in any one W-2 employment position.
- Documentation of the discussion on extensions between the participant and the FEP must be in the file within two business days after the FEP receives an alert regarding a participant reaching his or her 20<sup>th</sup> month of eligibility in a W-2 employment position.
- The FEP must initiate a discussion regarding subsequent extensions with the participant no later than two calendar months prior to the end of the initial extension and the W-2 Agency Employment Position Extension Record or similar documentation must then be added to the case paper file immediately.
- When a FEP determines an individual does not qualify for an extension and, therefore, the W-2 agency will not be seeking state approval, the FEP must document fully the reason why the individual failed to meet the extension criteria on the W-2 Agency Employment Position Extension Record.
- Initial extensions and subsequent extensions may be granted for up to six months.
- The W-2 agency must notify the participant of its extension decision no later than their 21<sup>st</sup> month of eligibility. Therefore, the FEP must trigger one of the CARES standard letters (NAEA, NAED or NAER) within two business days of receiving the 20-month alert for the participant.

## **W-2 EMPLOYMENT POSITION EXTENSION POLICY CLARIFICATIONS**

Based on input from the W-2 agencies and the experience with the first W-2 employment position extension request, the following clarifications will be effective July 1, 1999. These policy clarifications apply only to agencies that will be submitting extension applications as of July 1, 1999. If an agency submitted an extension application prior to July 1, 1999, the policies outlined in the W-2 Manual, Section 2.3.2.1 should be followed.

### *Extension Decision-Making Process*

The decision-making process regarding extensions begins with the participant and the agency discussing the need for an extension. If the participant does not want an extension, the W-2 agency does not apply for the extension. If the participant feels that they need an extension **and** the W-2 agency determines, based on the extension criteria, that the participant qualifies for an extension, the agency would seek state approval by submitting an application to the Division of Economic Support (DES) via its W-2 Contract Manager for decision. (See DEPARTMENT OF WORKFORCE DEVELOPMENT INTERNAL REVIEW PROCESS.) If the agency determines an individual qualifies for an extension, the decision is not final until the W-2 agency receives state approval.

### *Extension Criteria*

The W-2 statutes specifically state the criteria under which an extension may be granted for Trial Job (TJ) and Community Service Jobs (CSJs) employment positions. The law is less specific regarding criteria for W-2 Transition (W-2 T) employment position extensions except for the fact that they may be available. For that reason the criteria for granting extensions for W-2 T participants has been clarified.

Criteria for granting all W-2 employment position extensions is as follows:

1. Trial Job

The participant has made all appropriate efforts to find and accept unsubsidized employment and has been unable to do so because the local labor market conditions preclude a reasonable unsubsidized employment opportunity for the participant.

2. Community Service Job (CSJ)

The participant has made all appropriate efforts to find and accept unsubsidized employment and has been unable to do so because the local labor market conditions preclude a reasonable unsubsidized employment opportunity and, for the same reason, there are no Trial Jobs available.

3. W-2 Transition

The participant has made all appropriate efforts to find unsubsidized employment by participating in all assigned activities and significant barriers prevent advancement to a higher W-2 employment position.

### *Determining If A Participant Qualifies For An Extension*

When determining whether or not a W-2 participant qualifies for an extension in the appropriate employment position, each of the above criteria can be broken down into a series of questions the FEP should ask him or herself about the participant.

1. Trial Job/Community Service Jobs

The following questions should be asked for both Trial Job and CSJ participants. The first two questions are appropriate for Trial Job participants and all three are appropriate for CSJ participants.

- Has the CSJ (or Trial Job) participant made all appropriate efforts to find and accept unsubsidized employment?

In addition to exploring the participant's efforts in activities such as job search, the FEP may also consider the participant's efforts in participating in assigned activities that would have assisted the participant in finding and accepting employment, e.g. work experience, basic skills training, etc. Furthermore, the FEP must also take into consideration whether or not the participant has demonstrated noticeable and continual improvement in his or her preparation for becoming employable. Occasional instances of noncooperation would not necessarily disqualify a person for consideration of an extension, provided s/he continued to make progress. For example, a participant who refused to cooperate some time ago may qualify for an extension if the agency determines the participant had not yet received the full benefit of W-2 services. However, if the FEP determines the participant has not made all appropriate efforts to find and accept unsubsidized employment, the participant does not qualify for an extension. The FEP does not need to look any further at the extension criteria. However, if the participant has made all appropriate efforts to find and accept unsubsidized employment, the FEP then asks:

- Do the local labor market conditions preclude a reasonable unsubsidized employment opportunity for the CSJ (or Trial Job) participant?

The FEP may consider issues such as unemployment rates, availability of transportation to areas with job opportunities, etc. If the answer to the question is no, the participant does not qualify for an extension. However, if the answer is yes, the FEP then asks:

- Do the local labor market conditions preclude a reasonable Trial Jobs opportunity?

Again, if the answer is No, the participant does not qualify for an extension, but may be eligible for a Trial Job if s/he is suitable for a Trial Job placement. If the answer is Yes, the participant does qualify for an extension.

## 2. W-2 Transition

For a W-2 T participant, the FEP should ask the following questions:

- Has the W-2 T participant made all appropriate efforts to find unsubsidized employment by participating in all assigned activities?

Again, the FEP must take into consideration whether or not the participant has demonstrated noticeable and continual improvement in his or her preparation for becoming employable. Occasional instances of noncooperation would not necessarily disqualify a person for consideration of an extension, provided s/he continued to generally make progress. However, if the answer to the question is No, the participant does not qualify for an extension and the FEP would not need to look any further at the criteria. If the answer is Yes, the FEP would then ask:

- Does the participant have significant barriers which prevent advancement to a higher W-2 employment position?

If the answer is Yes, the participant does qualify for an extension. If the answer is No, the participant does not qualify for an extension.

When a FEP determines an individual does not qualify for an extension and, therefore, the W-2 agency will not be seeking state approval, the FEP must be able to document fully the reason why the individual failed to meet the extension criteria. This must be done on the W-2 Agency Employment Position Extension Record. (See attached form).

## *Notifying Participants of Extensions*

### 1. Initial Extensions

W-2 agencies are given some discretion in how they communicate the time limit message to participants. (See Operations Memo 99-48). However, at the appropriate time, the time limit discussion **must** also include a discussion regarding extensions. Participants have a right to know what an extension is, the criteria under which an extension may be granted and the process for granting it. Although participants are notified of extensions through various CARES notices, by policy, **a discussion regarding extensions must take place between the FEP and the participant no later than when the participant reaches 18 months of eligibility in any one W-2 employment position.** W-2 agencies may choose to discuss extensions earlier than 18 months.

**Within 2 business days after the FEP receives an alert regarding a participant reaching his or her 20<sup>th</sup> month of eligibility in a W-2 employment position, documentation of the agency's extension decision on whether or not the participant qualifies for an extension must be in the paper file.** (See W-2 Agency Employment Position Extension Record). At that same time, an entry must be made in case comments stating that the documentation has been placed in the file. In order to identify participants that have reached their 18<sup>th</sup> month of eligibility, FEPs should continue to use the Individual Clocks Report (C785). (See Administrator's Memo 99-04 for more information on clocks reports.)

### 2. Subsequent Extensions

For subsequent extensions, the FEP and the participant must again discuss whether or not the participant qualifies for a subsequent extension. The same extension criteria that is used in determining initial extensions is used in determining subsequent extensions. (See Extension Criteria) A discussion regarding subsequent extensions must take place between the FEP and the participant no later than two calendar months prior to the end of the initial extension and the W-2 Agency Employment Position Extension Record or similar documentation must then be added to the case paper file immediately.

### 3. W-2 Agency Employment Position Extension Record

The W-2 Agency must document its decision on whether or not the participant qualifies for an extension and whether or not the agency will be seeking state approval. The purpose of the documentation is to ensure that the agency has informed the participant of the availability of an extension, the extension policy and the criteria under which extensions are granted. The discussion regarding extensions should be noted in case comments and the outcome documented thoroughly on the W-2 Agency Employment Position Extension Record. (See attached form). The form must then be added to the case paper file. This record will be used in any Fact Finding reviews or Departmental Reviews that result from a participant petitioning for a review of the W-2 agency's decision regarding extensions. (See Dispute Resolution).

## *Extension Timeframes (See attached W-2 Extension Timeline)*

The 24-Month W-2 Employment Position Extension Request (DES-11282) form must be submitted to the DES Contract Manager no later than **3 calendar months** prior to the last day of the participant's 24th month. A decision on the extension will be made by the Department within **1 calendar month** of receiving the extension request. An extension may be granted **for up to 6 calendar months** from the last day of the participant's 24th month. Under rare circumstances, a W-2 agency may need to submit an extension request with less than **3 calendar months** remaining in the participant's 24 month eligibility period.

If, after an extension approval is granted, the W-2 agency determines a subsequent extension period may be necessary, the agency must submit in writing a request for a review of the extension. The 24-Month Extension Review (DES-11283) form must be submitted to the DES Contract Manager no later than **one calendar month** prior to the last day of the extension period. The Department will respond to extension review requests within 15 days of receipt of the extension review. A reapproval of an extension request may be granted for up to **6 months** from the last day of the participant's current extension.

### *Extensions and Moving Between Agencies*

If an agency seeks state approval of an extension and the request is denied, a W-2 agency cannot apply for an extension at a later date, even if the participant moves to an area served by another W-2 agency. This does not preclude the original agency or the new agency from re-assessing the participant and determining the individual eligible for one of the other W-2 employment positions. This also does not preclude the individual from petitioning for a review of the denial decision (see Dispute Process). On the other hand, if a participant's 24-months of eligibility expires and the original W-2 agency never applied for an extension for the participant, the possibility for applying for an extension remains an option either through the original W-2 agency or a new W-2 agency.

### *Extension Approval Request Form*

Attached is the second release of the 24-Month W-2 Employment Position Extension Request (DES-11282) form. The form has been revised based on our experience with the first extension request.

There were a number of minor technical changes as well as changes regarding the type of information collected. The revisions regarding the information being collected include:

- Instructions on determining the last day of a participant's 24th month;
- Expanded extension criteria for W-2 T's;
- A request for a one-page summary that gives a historical perspective containing information pertinent to the extension request;
- A section asking the agency to identify the facts that support approving an extension for the participant.
- Detailed reasons for extension denials;
- The signature of the participant;
- A section for Action Steps. The action steps will be included in the response to the agency whether an extension is denied or approved. If an extension is approved, completion of the steps will be considered in subsequent extension requests.

### *Dispute Resolution for Extension Decisions*

If a W-2 agency determines, based on the extension criteria, that a W-2 participant does not qualify for an extension and, therefore, will not be seeking state approval, it must give notice to the participant of the denial decision (See Required Notification to Participants.) The participant has the right to file for a Fact Finding Review and the decision making process follows the Fact Finding Process. The Fact Finder and the Departmental Reviewer (if necessary) would review the W-2 Agency Employment Position Extension Record as well as any other appropriate documentation. (See attached form).

If a W-2 agency determines the participant does qualify for an extension based on the extension criteria and will be seeking state approval, the agency submits an request to the Division of Economic Support (DES) and a formal response is issued to the agency regarding the decision. (See Internal Review Process). If the Division grants the extension, the W-2 agency must notify the participant and there is no need for a dispute process. If DES does NOT grant the extension, the W-2 agency may ask the Department to reconsider the initial decision. If, upon reconsideration, DES upholds the original decision, the W-2 agency must notify the participant of the decision.

If the participant disagrees with the Division's decision, he or she may request a Departmental Review through the Division of Hearings and Appeals (DHA) in which DHA would review the extension application, the internal review/extension decision documentation and any other necessary documentation. If necessary, both the participant and a DES representative would have to participate in the review, e.g. by providing further documentation as requested by DHA. The review could include an administrative hearing.

### *Dispute Process Remedies*

#### 1. Remedy for an Extension Decision Made by the W-2 Agency

The participant may file for a Fact Finding if the W-2 agency determines the participant does not qualify for an extension and, subsequently, will not be seeking state approval. If the Fact Finder or the Second Level Reviewer finds in favor of the participant, the W-2 agency would be required to submit an application for an extension for the participant. All existing Fact Finding timeframes are applicable, including the 10-day period for complying with a fact finding decision. (For more information on Fact Findings, see Chapter 19 of the W-2 Manual).

#### 2. Remedy for an Extension Decision made by the Division

The participant may file for a Departmental Review if the Division determines the participant does not qualify for an extension. If the Departmental Reviewer finds in favor of the participant, DHA may direct the W-2 agency to grant the participant an extension. If the participant's time limit has expired, the individual should be placed in the W-2 employment position they were in when the application for the extension was submitted. The individual would be eligible for a W-2 payment for the employment position extension beginning on the date the individual begins participation. No retroactive cash payment for the period prior to participation shall be issued. All existing Departmental Review timeframes are applicable, including the 10-day period for complying with a Departmental Review decision. (For more information on Departmental Reviews, see Chapter 19 of the W-2 Manual).

### *Required Notification To Participants*

Proper notification of time limits and extensions to participants is a critical piece in communicating the time limit message. For that reason, a number of notices associated with time clocks have already been created. Existing notices contain the following extension language:

W-2 extensions may be requested for exceptional circumstances. Examples include a person who is unable to work due to a disability, is needed to care full-time for a W-2 group member with a disability, or other unique circumstances. Refer to the Guide to Time Limits pamphlet for more information about W-2 time limits. Contact your worker if you have questions about W-2 services or other resources available to you.

Existing notices include:

- Review Notice (AEEI): Sent to participants at each review (every 3 - 6 months). The notice informs participants of the amount of time used on all W-2 clocks. (Effective February 1999)
- 20-Month (CM03) and 23-Month Notices (CM04): Sent to participants in a W-2 employment position at the 20<sup>th</sup> and 23<sup>rd</sup> months. These notices inform participants when eligibility may end for that particular employment position. The notice also shows the participant the amount of time used on all W-2 clocks. (Effective June 4, 1999)

For more information on these notices, see Operations Memo 99-21 and 99-41.

A number of notices have been developed specific to W-2 Employment Position extensions.

#### 1. Notification of a Decision Made by the W-2 Agency

The following three notices (in CARES they are standard letters) have been created to notify the participant of the W-2 agency's decision as to whether or not the participant qualifies for an extension and whether or not they will be seeking state approval.

**NAEA 009901:** Informs the participant that the W-2 agency has determined the participant qualifies for a W-2 employment position extension and will be seeking state approval.

**NAED 009901:** Informs the participant that the W-2 agency has determined participant does not qualify for a W-2 employment position extension and will not be seeking state approval.

**One** of the following denial reasons will appear on notice NAED 009901:

- a. Not made all appropriate efforts to find and accept a job
- b. Job opportunities are available in the local labor market
- c. W-2 Trial Job opportunity available in local labor market
- d. No significant barriers preventing higher W-2 placement
- e. Not participated in all assigned activities

**NAER 009901:** Informs the participant that although they potentially qualify for an extension, the W-2 agency will not be seeking state approval because the participant does not want an extension.

### **CARES Instructions**

The participant must be notified of the agency's decision no later than his or her 21<sup>st</sup> month of eligibility in a W-2 employment position. **Therefore, the FEP must trigger one of the CARES standard letters (NAEA, NAED or NAER) within two business days of receiving the 20-month alert for the participant.** Until these notices are triggered automatically in CARES, workers will have to generate a CARES manual notice. The notices will be available in CARES by July 1, 1999 and can be located using the appropriate identifying name and number.

On the **NAED 009901**, the FEP must select only one denial reason code. The denial reason codes listed above must correspond with the appropriate employment position extension criteria. For Trial Job participants, the FEP must have selected either 1 **or** 2. For CSJ participants, the FEP must have selected 1, 2 **or** 3. For W-2 T participants, the FEP must have selected either 4 **or** 5. (See Operations Memo 98-84 for more information on issuing standard letters and manual notices).

## **2. Notification of a Decision Made by the Division of Economic Support**

Extensions must be approved by the Department of Workforce Development, Division of Economic Support. Submitting the request for approval is the responsibility of the W-2 agency. The W-2 agency is also responsible for notifying the participant of the Division's decision. For that reason, two notices have been created:

**APLM:** Informs the participant that DES has determined the participant qualifies for a W-2 employment position extension.

**APLL:** Informs the participant that DES has determined the participant does not qualify for a W-2 employment position extension.

**One** of the following denial reasons will appear on the notice:

- a. Not made all appropriate efforts to find and accept a job
- b. Job opportunities are available in the local labor market
- c. W-2 Trial Job opportunity available in local labor market
- d. No significant barriers preventing higher W-2 placement
- e. Not participated in all assigned activities

### **CARES Instructions**

These notices are triggered by entries made on the new CARES extension screen AIWE. Until this is functional in CARES, the appropriate notice will be included in the Division's formal response to the W-2 agency. The W-2 agency is then responsible for giving the notice to the participant. The appropriate denial reason code will be determined by the division and identified in the notice.

## **DEPARTMENT OF WORKFORCE DEVELOPMENT'S INTERNAL REVIEW PROCESS**

The Department of Workforce Development, Division of Economic Support (DES) reviews all extension applications. The review process starts with an internal review by a team led by the DES Contract Manager and consisting of DES Central office staff. If necessary, the review team meets initially to review the application materials and determine if additional materials are necessary in the decision making process. However, due to the extensive review being completed by DES regional staff of cases approaching their time limits, the DES Contract Manager will already be familiar with the details of cases applying for extensions and a preliminary meeting may not be necessary.

Once all materials are received from the agency, the review team meets again to discuss the application, make a recommendation for approval by the DES Division Administrator and identify additional action steps the agency can take to serve the participant until the last day of the 24<sup>th</sup> month and/or during the extension period. The DES Division Administrator then reviews the recommendation from the internal review team and approves, modifies or denies the recommended action. A copy of the 24-Month W-2 Employment Position Extension Request (DES-11282) form is then returned to the agency with the extension decision and recommended actions steps, if appropriate.

## **QUALITY CUSTOMER SERVICE**

It is the ongoing responsibility of the Department of Workforce Development (DWD) and its program administrators, through contract requirements and contract monitoring, to ensure that all individuals who walk through Wisconsin Works (W-2) agency doors continue to be given the level of attention and services necessary to guide them to self-sufficiency. It is equally as important that these services are provided on a fair and equitable basis.

The W-2 agencies and DWD have contractual obligations to ensure quality and consistent customer service. To meet the Department's contractual obligations, there are a number of safeguards currently in place to ensure that services are provided fairly and equitably, such as contract monitoring, the Fact Finding process, etc.

For instances in which state policy and procedures are not being followed, the contracts provide clauses which penalize the agencies and counties for inappropriate, improper or lack of service. The two primary penalty clauses in the W-2 Implementation contracts are the payment adjustment and the failure to serve clauses.

As partners in this ongoing effort, it is the responsibility of each one of us, whether it be contractually or as public servants, to be aware of situations in which individuals may not be offered the level of services required by the W-2 Implementation Contract. There are a variety of sources which may reveal an instance in which a W-2 agency has failed to provide the services described above. These sources include: the W-2 applicant or participant; report analysis; agency monitoring; surveys; or the general public.

An additional source in the continuous effort to ensure quality is the internal review of an extension application. If the internal review team believes that a failure to serve may have occurred, they may initiate the Quality Customer Service process to determine if there was a failure to serve.

For more information, see Section 17 of the W-2 Contract Implementation Contract.